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In re Application of	:	
RIDGWAY, Michael	:	
Application No.: 10/553,530	:	
PCT No.: PCT/GB2003/001737	:	
Int. Filing Date: 23 April 2003	:	DECISION
Priority Date: None	:	
Attorney Docket No.: None	:	
For: PAINTBRUSH ROTATION CONTROL	:	
SYSTEM	:	

This decision is in response to applicants' petition filed in the United States Patent and Trademark Office on 28 February 2008.

**BACKGROUND**

On 23 April 2003, applicant filed international application number PCT/GB2003/001737. A copy of that application was transmitted to the Office, by the International Bureau on 01 November 2003. The deadline for payment of the basic national fee was 23 October 2005.

On 17 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 15 June 2006, the Office mailed Notification of Insufficient Fees (Form PCT/DO/EO/923) indicating that the search fee and examination fee were required within two (2) months of the mailing of the notification. The notification further indicated that extensions of time were available under 37 CFR 1.136(a).

On 23 October 2006, 06 December 2006 and 05 February 2007, applicant filed letters asking about the extensions of time and indicating he did not believe he was a large entity. Applicant did not supply extension of time fees.

On 07 March 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification issued 15 June 2006.

On 28 February 2008, applicant filed a petition to revive with the Office. Applicant did not indicate whether the revival request was under 37 CFR 1.137(a) or (b), but paid the fee for revival under 37 CFR 1.137(a).

### **DISCUSSION**

A petition to revive an application for patent unavoidably abandoned under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, (2) the petition fee, (3) a satisfactory showing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition to 1.137(a) was unavoidable and (4) a terminal disclaimer if application was filed before June 8, 1995.

Items (1), (2) and (4) have been met. Applicant has provided the proper response and the petition fee. A terminal disclaimer is not required as the application was filed on or after 08 June 1995.

Item (3) has not been satisfied. The deadline for payment search fee and the examination fee was set out in the Notification mailed 15 June 2006. Further the extension of time fees are available on the USPTO website. Applicant was aware of the necessity of filing the fees, but submitted multiple responses to the Office without the required fees.

Further, although applicant indicates in his petition that he paid the Office \$855 by credit card for the fees, Office records indicate that only \$770 was charged. Also, while applicant was correctly informed that it was too late to receive refund of the large entity basic national fee, applicant can establish small entity status at any time and payment of the small entity fee establishes small entity status. Applicant claims to have paid the small entity for the petition fee, but indicates payment of the large entity fees for the search fee and examination fee. Finally, in addition to the fees noted on the Notification of Insufficient Fees, applicant also must pay the fee for paying the search fee or examination fee or for supplying the oath or declaration after 30 months from the priority date. That fee is \$130 for a large entity or \$65 for a small entity.

Applicant may wish to consider filing a petition under 37 CFR 1.137(b) for unintentional delay. The current fee for a small entity is \$770, for other than small entity, the fee is \$1540

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.137(a) is **DISMISSED** without prejudice.

This application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(a)".

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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Enc: Petition to Revive an International Application, Unintentionally Abandoned Under 37 CFR 1.137(b)